

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

JUDICIAL WATCH, INC.,)	
425 Third Street SW, Suite 800)	
Washington, DC 20024,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	
)	
U.S. DEPARTMENT OF JUSTICE,)	
950 Pennsylvania Avenue NW)	
Washington, DC 20530-0001,)	
)	
Defendant.)	
_____)	

COMPLAINT

Plaintiff Judicial Watch, Inc. (“Plaintiff”) brings this action against the U.S. Department of Justice (“Defendant” or “DOJ”) to compel compliance with the Freedom of Information Act, 5 U.S.C. § 552. As grounds therefor, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.
2. Venue is proper in this district pursuant to 28 U.S.C. § 1391(e).

PARTIES

3. Plaintiff Judicial Watch, Inc. is a not-for-profit, educational organization incorporated under the laws of the District of Columbia and headquartered at 425 Third Street SW, Suite 800, Washington, DC 20024. Plaintiff seeks to promote transparency, accountability, and integrity in government and fidelity to the rule of law. As part of its mission, Plaintiff regularly requests records from federal agencies pursuant to the Freedom of Information Act

(“FOIA”). Plaintiff analyzes the responses and disseminates its findings and the requested records to the American public to inform them about “what their government is up to.”

4. Defendant is an agency of the United States Government. Defendant has possession, custody, and control of records to which Plaintiff seeks access. Defendant is headquartered at 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001.

STATEMENT OF FACTS

5. On May 17, 2019, Plaintiff submitted a FOIA request to Defendant seeking access to the following records:

1. All records of DOJ officials’ communications, notes, call logs, calendar entries, transcripts, audio-visual recordings and other records relating to an “analytical exchange” between a delegation of German officials and DOJ officials which occurred circa April 26, 2016 in Washington, DC.
2. All records reflecting the identities and titles of the German officials who attended the analytical exchange on April 26, 2016.

The request was sent to Defendant’s FOIA/PA Mail Referral Unit, the component designated by Defendant to receive FOIA requests.

6. That same day, Plaintiff submitted a nearly identical FOIA request to the FBI, a component of Defendant. Plaintiff’s request to the FBI sought access to the following records:

1. All records of FBI officials’ communications, notes, call logs, calendar entries, transcripts, audio-visual recordings and other records relating to an “analytical exchange” between a delegation of German officials and US Government officials which occurred circa April 26, 2016 in Washington, DC.
2. All records reflecting the identities and titles of the German officials who attended the analytical exchange on April 26, 2016.

7. By letter dated June 3, 2019, Defendant acknowledged receipt of Plaintiff’s request and referred the request to the FBI.

8. By letter dated June 12, 2019, the FBI acknowledged receipt of Plaintiff's request and assigned the request FOIPA Request No. 1438938-000.

9. As of the date of this Complaint, Defendant has not: (i) produced the requested records or demonstrated that the requested records are lawfully exempt from production; (ii) notified Plaintiff of the scope of any responsive records they intend to produce or withhold and the reasons for any withholdings; or (iii) informed Plaintiff that it may appeal any adequately specific, adverse determination.

COUNT I
(Violation of FOIA, 5 U.S.C. § 552)

10. Plaintiff realleges paragraphs 1 through 9 as if fully stated herein.

11. Defendant is in violation of FOIA.

12. Plaintiff is being irreparably harmed by Defendant's violation of FOIA, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to comply with the law.

13. To trigger FOIA's administrative exhaustion requirement, Defendant and the FBI were required to make a final determination on Plaintiff's requests within the time limits set by FOIA. Using the FBI's June 12, 2019 acknowledgment letter as the starting point for the response period, Defendant's determinations were due by July 11, 2019 at the latest.

14. Because Defendant and the FBI failed to make final determinations on Plaintiff's requests within the time limits set by FOIA, Plaintiff is deemed to have exhausted its administrative appeal remedies.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) order Defendant and the FBI to conduct searches for any and all records responsive to Plaintiff's FOIA requests and demonstrate that they employed search methods reasonably likely to lead to the discovery of records responsive to the requests; (2) order Defendant and the FBI to produce, by a date certain,

any and all non-exempt records responsive to Plaintiff's requests and *Vaughn* indices of any responsive records withheld under claim of exemption; (3) enjoin Defendant and the FBI from continuing to withhold any and all non-exempt records responsive to the requests; (4) grant Plaintiff an award of attorneys' fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and (5) grant Plaintiff such other relief as the Court deems just and proper.

Dated: September 9, 2019

Respectfully submitted,

/s/ Paul J. Orfanedes

Paul J. Orfanedes

D.C. Bar No. 429716

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